

REMARKS

Applicants appreciate the thorough review of the present application as reflected in the Official Action. Applicants have amended Claim 1 to remove the language "the steps of." Applicants submit that the pending claims are patentable over the cited references for the reasons discussed below.

The Drawings

Applicants acknowledge the rejection of the drawings and will submit formal drawings upon an indication of allowance of the present application.

The Section 112 Rejection

Claims 1-22 stand rejected under 35 U.S.C. § 112 first paragraph. Applicants have removed the language "the steps of" from Claim 1. Accordingly, the preamble of Claim 1 is consistent with Claim 1 having a single step. Applicants, therefore, submit that the rejection of Claims 1-22 has been overcome.

The Section 102 Rejections

Claims 1-7, 9-12, 23-28 and 30-32 stand rejected under 35 U.S.C. § 102(e) as anticipated by United States Patent No. 5,828,034 to Chang (hereinafter "Chang"). In particular, the Official Action cites to col. 1, lines 55-64 of Chang as disclosing the recitations of independent Claims 1 and 23.

Under 35 U.S.C. § 102, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)). "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" M.P.E.P. § 2112 (citations omitted) (emphasis

added).

A finding of anticipation further requires that there must be no difference between the claimed invention and the disclosure of the cited reference as viewed by one of ordinary skill in the art. *See Scripps Clinic & Research Foundation v. Genentech Inc.*, 18 U.S.P.Q.2d 1001 (Fed. Cir. 1991). Thus, anticipation requires that a single prior art reference disclose each and every element of the anticipated claim.

The cited portion of Chang describes a computer peripheral that, in combination with a heat source, keeps a user's fingers and hands warm and comfortable. Chang, col. 1, lines 53-57. The cited portion of Chang further describes warming exterior surfaces of a device or air that is circulated and flows onto the user's hands and fingers to warm them. Chang, col. 1, lines 57-64. Thus, Chang is directed to devices that warm a user's fingers or hands when using a computer peripheral.

Claim 1 of the present application recites:

1. (Presently Amended) A method for protecting data entry to a data entry device from eavesdropping comprising:
masking a signature of entry resulting from entry of data by a user of the data entry device so as to reduce the detectability of the signature by eavesdropping.

Corresponding recitations are found in independent Claim 23. Applicants submit that Chang says nothing about whether the peripheral devices of Chang could mask user input or suggest that such devices would be used for such purposes. Furthermore, Applicants submit that the keyboard of Chang would not inherently mask a signature of entry. For example, if the temperature of the warming air was substantially greater than that of the user and the keys of the keyboard were warmed to that temperature, then use of the keyboard by the user may be reflected in a cooling of the keys. As such, Applicants submit that the keyboard of Chang would not inherently function to mask a signature of entry. Accordingly, Applicants submit that independent Claims 1 and 23, and the claims that depend from them, are neither disclosed nor suggested by Chang for at least these reasons.

Claims 1, 14, 15, 19, 20, 21, 23, 33, 34 and 39 stand rejected under 35 U.S.C. § 102(b) as anticipated by United States Patent No. 5,075,606 to Lipman (hereinafter "Lipman"). Official Action, p. 3. With regard to Claims 1 and 23, the Official Action

cites to col. 2, line 24 of Lipman as disclosing the recitations of these claim. Official Action, p. 3.

Lipman is directed to a solid state DC fan motor. The cited portion of Lipman states that "[f]ans for computers and other electrical equipment are typically quite noisy due to the presence of torque/flutter, vibration, turbulence and acoustical noise." Lipman, col. 12, lines 24-26. Applicants submit that merely stating that fans of computers are noisy does not disclose or suggest the recitations of Claims 1 or 23. There is nothing in the cited portion of Lipman that says how noisy the fans are or that they are located in proximity of an input device. Furthermore, even if noisy, unless the noise is at the correct frequency such that it would mask data entry noises, the mere presence of noise would not necessarily result in the masking recited in Claims 1 and 23. In fact, nothing in the cited portion of Lipman discloses or suggests masking data entry as recited in Claims 1 and 23. Applicants submit that, merely because something can be noisy, does not disclose the recitations of the independent claims. Accordingly, Claims 1 and 23 and the claims that depend from them are neither disclosed nor suggested by the cited portions of Lipman for at least these reasons.

Applicants also note that Claim 21 is mentioned as anticipated by Lipman, however, these claims are not discussed in the anticipation rejections of the Official Action. See Official Action, pp. 3-4. Applicants submit that the recitations of Claim 21 are not disclosed or suggested by the DC fan of Lipman and, therefore, are separately patentable over Lipman for at least these reasons.

Claims 1, 14, 15, 16, 22, 23, 34, 35 and 36 stand rejected under 35 U.S.C. § 102(b) as anticipated by United States Patent No. 5,778,081 to Patrick (hereinafter "Patrick"). Official Action, p. 4. The cited portion of Patrick describes an active noise control that cancels noise from an air conditioning duct. Nothing in the cited portion of Patrick discloses or suggests that such an active noise control be used to mask data entry as recited in Claims 1 and 23. Certainly, the cited portion of Patrick does not disclose such a use nor does it describe a system that is configured for such a use. Accordingly, Applicants submit that Patrick does not disclose or suggest the recitations of Claims 1 and 23 or the claims that depend from them for at least these reasons.

Claims 1, 14, 15, 17, 22, 23, 34, 36 and 37 stand rejected under 35 U.S.C. § 102(b) as anticipated by United States Patent No. 4,052,720 to McGregor (hereinafter "McGregor"). Official Action, p. 4. The cited portion of McGregor describes noise control that combines a generated noise and music. Nothing in the cited portion of McGregor discloses or suggests that such generated noise and music be used to mask data entry as recited in Claims 1 and 23. Accordingly, Applicants submit that McGregor does not disclose or suggest the recitations of Claims 1 and 23 or the claims that depend from them for at least these reasons.

The Section 103 Rejections

Claim 8 stands rejected under 35 U.S.C. § 103 as obvious in light of Chang. Applicants submit that Claim 8 is patentable at least per its base claim. Furthermore, as Chang does not relate to masking data entry, Applicants submit that there would be no reason to modify Chang to perform such a function.

Claim 13 stands rejected under 35 U.S.C. § 103 as obvious in light of Chang and United States Patent No. 4,727,655 to Jacobi Jr. (hereinafter "Jacobi"). Applicants submit that Claim 13 is patentable as depending from a patentable base claim. Applicants further submit that, as Chang does not relate to masking data entry, there would be no reason to modify Chang to perform such a function. Additionally, Jacobi describes a dryer for printed materials. See Jacobi, col. 2, lines 30-32. Applicants submit that one of skill in the art would not look to the heat lamp assembly of Jacobi that is used for drying coated printed materials to combine with the keyboard of Chang to result in the recitations of Claim 13. Accordingly, Applicants submit that Claim 13 is separately patentable over the cited references for at least these additional reasons.

Claim 21 stands rejected under 35 U.S.C. § 103 as obvious in light of Chang and Lipman. Applicant submits that Claim 21 is patentable at least per the patentability of its base claim. Applicants further submit that the combination of Chang and Lipman does not result in the recitations of Claim 21 and can only be arrived at through the impermissible use of hindsight. In particular, the combination of Chang and Lipman would provide a computer with a heated keyboard and a noisy fan. That is not what is claimed in Claim 21. Furthermore, as discussed above,

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neither Chang nor Lipman relate to masking of data entry. Thus, neither Lipman nor Chang are directed to solving the problem solved by the present invention.

Accordingly, one of skill in the art would not be motivated to combine the unrelated teachings of Lipman with those of Chang to result in the recitations of Claim 21.

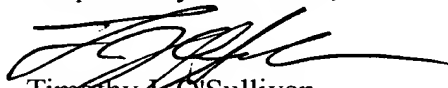
Applicants, therefore, submit that Claim 21 is separately patentable for at least these additional reasons.

Conclusion

In light of the above discussion, Applicants submit that the present application is in condition for allowance, which action is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

It is not believed that an extension of time and/or additional fee(s)-including fees for net addition of claims-are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned for under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to Deposit Account No. 09-0461.


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 10, 2003.


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Date of Signature: November 10, 2003